IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Bail Appl..No. 7743 of 2007()

CRIME NO. 210/07 OF OONNUKAL POLICE STATION

PETITIONER/A2

M.P.NARAYANAN, S/O.PAPU, AGED 47,
MANALODI KUNNUMPURATH HOUSE, NERIYAMANGALAM.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS:

STATE OF KERALA, REP. BY SUB INSPEPCTOR
OF POLICE, OONNUKEL POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM. (INVESTIGATING OFFICER IN CRIME
NO.210/2007 OF OONNUKAL POLICE STATION).

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7743 OF 2007

Dated this the 14th day of December, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. The petitioner's son is the 1st accused. The 1st accused had purchased 3 litres of Indian Made Foreign Liquor from a legal out let. The liquor purchased was perfectly licit in the sense that it bore the Beverages Corporation's security sticker on it. On his way from the out let to his house, he was intercepted. The liquor was seized. The son allegedly made a statement to the intercepting police official that he was taking it to his father for sale. The son was arrested. The petitioner has been arrayed as the 2nd accused. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The case on hand is a classic

instance of abuse of the powers under the Kerala Abkari Act, it is submitted. The petitioner has no criminal antecedents at all. There is nothing to show that the petitioner had ever indulged in any offence punishable under the Abkari Act. Very lightly the assumption is made that liquor purchased from the legal and valid retail out let by the petitioner's son was purchased by him and he was bringing it to the petitioner's house for sale. The course adopted by the detecting police officer is most unsatisfactory and unjustified. The petitioner's son was arrested; but he was immediately enlarged on bail by the court on the next day. The petitioner now apprehends imminent arrest.

3. The learned Public Prosecutor does not oppose the application. To a pointed query by this Court, the learned Public Prosecutor concedes that the petitioner has no history of any criminal antecedents and there is nothing except the alleged statement of the son of the petitioner to implicate him. I am satisfied that the petitioner can be granted anticipatory bail in these circumstances.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 21/12/07. He shall

be released on regular bail on his executing a bond for Rs.25,000/- without any sureties.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 21/12/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 21/12/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge